

TRANSPORTATION DEPARTMENT[761]

Notice of Intended Action

Proposing rule making related to undercover driver's licenses and providing an opportunity for public comment

The Department of Transportation hereby proposes to amend Chapter 625, "Driver's Licenses for Undercover Law Enforcement Officers," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 307.12 and 321.189A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 80G.3 and 321.189A and 6 CFR Part 37.

Purpose and Summary

The Department is proposing to update Chapter 625 to incorporate amendments that align with existing legal authority and Department practice and to eliminate outdated or irrelevant requirements or options.

The office name and address are corrected to accurately identify the Bureau of Investigation and Identity Protection as the office responsible for the review associated with the issuance of undercover licenses under this chapter, and the amendments clarify that an investigation of an application for an undercover driver's license will consist of verification of the applicant's employment with the sponsoring law enforcement agency and will no longer include a check of a fictitious social security number as those numbers are no longer being used.

The process of issuing a driver's license to an undercover law enforcement officer is amended to align the rule with the current practice of requiring an applicant to appear at the Motor Vehicle Division headquarters in Ankeny, Iowa, in order to be issued the initial undercover driver's license; to clarify that the requirements of rule 761—601.5(321), related to proofs submitted with an application, are waived in conformance with the authority in the federal REAL ID regulations in 6 CFR Part 37 for issuance of credentials to undercover law enforcement officers; and to rescind rule 761—625.4(321), relating to renewal of an undercover driver's license, and move the content of that rule to new subrule 625.3(3). An undercover driver's license may not be renewed, but a new application may be submitted and, if accepted, the Department may issue a new undercover license for an individual who continues to meet the undercover license criteria.

Finally, the proposed amendments add cross references to Iowa Code section 80G.3, which relates to the confidential treatment of undercover law enforcement records, and to 6 CFR Part 37, which relates to the documentation required for issuance of a credential to undercover law enforcement officers in accordance with the federal REAL ID regulations.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the person's circumstances meet the statutory criteria for a waiver may petition the Department for a waiver under 761—Chapter 11.

Public Comment

Any interested person may submit written comments concerning this proposed rule making or may submit a written request to make an oral presentation at a public hearing. Written comments or requests to present oral comments in response to this rule making must be received by the Department no later than 4:30 p.m. on July 24, 2018. Comments should be directed to:

Tracy George
Department of Transportation
DOT Rules Administrator, Strategic Communications and Policy
800 Lincoln Way
Ames, Iowa 50010
Email: tracy.george@iowadot.us

Public Hearing

A public hearing to hear requested oral presentations will be held as follows:

July 26, 2018	Department of Transportation
2 p.m.	Motor Vehicle Division
	6310 SE Convenience Boulevard
	Ankeny, Iowa

Persons who wish to make oral comments at the public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rule making.

Any persons who intend to attend the public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact Tracy George, the Department's rules administrator, and advise of specific needs.

The public hearing will be canceled without further notice if no oral presentation is requested.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend paragraph **625.2(1)“e”** as follows:

e. Be submitted to the ~~office of driver services at the address in rule 761—600.2(17A)~~ Bureau of Investigation and Identity Protection, Iowa Department of Transportation, 6310 SE Convenience Blvd., Ankeny, Iowa 50021.

ITEM 2. Amend subrule 625.2(2) as follows:

625.2(2) All applications shall be investigated by the department. An investigation shall include, but not be limited to, a 50-state check of the fictitious name and, ~~if provided, fictitious social security number~~ verification of the applicant's employment with the sponsoring law enforcement agency.

ITEM 3. Amend rule 761—625.3(321) as follows:

761—625.3(321) Issuance.

625.3(1) To obtain an undercover license after the application is approved, the applicant must appear at ~~a driver's license examination station that has record capabilities~~ the Motor Vehicle Division offices, Iowa Department of Transportation, 6310 SE Convenience Blvd., Ankeny, Iowa, with all applicable documents necessary for the issuance of an undercover license.

625.3(2) A two-year license will be issued. The applicant must pay all fees and meet all requirements for the class of license applied for, except that ~~761—subrule 601.5(1)~~ rule 761—601.5(321) is waived in accordance with the provisions in 6 CFR Part 37.

625.3(3) An undercover license may not be renewed. The department may issue a subsequent new undercover license to an applicant who submits a new application and continues to meet the requirements of rule 761—625.2(321).

ITEM 4. Rescind and reserve rule **761—625.4(321)**.

ITEM 5. Amend subrule 625.6(1) as follows:

625.6(1) Applications, forms and other records of the department that establish the true identity of an applicant or licensee under this chapter are confidential public records under Iowa Code sections 22.7, 80G.3 and 321.189A. The fictitious license information itself is not confidential, except as provided in Iowa Code section 321.11.

ITEM 6. Amend **761—Chapter 625**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 22.7, 80G.3 and 321.189A, and 6 CFR Part 37.